

REMARKS

Claim 6 has been amended. New claims 11 to 16 have been added. No new matter has been added to any of the claims. Claims 6 to 16 now are pending.

Applicants respectfully request reconsideration of the present application in view of this amendment.

Applicants thank the Examiner for accepting Applicants' Drawings submitted in a previous communication.

Claims 6 to 8 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,611,916 to Yoshizumi ("Yoshizumi reference") in view of U.S. Patent No. 3,635,552 to De Lang ("De Lang reference").

Applicants agree with the Examiner that the Yoshizumi reference lacks an analyzer. However, at the same time, Applicants disagree with the Examiner's proposal to combine the De Lang reference with the Yoshizumi reference. And, even if combinable, the Yoshizumi and the De Lang reference do not teach or describe all of the features of the present invention in the manner claimed.

The 1984 Yoshizumi reference purportedly concerns an optical measuring apparatus which teaches focusing measuring light by an objective lens 6, radiating a surface on an object 7 to be measure – the object 7 being fixed on a carrier 14 which is moved along in the x and y direction. (Col. 3 lines 31-41). The Yoshizumi reference apparently needs a moving test object in order to get the appropriate measurement. And, the Yoshizumi reference does not use an analyzer. Claim 6 (and its dependent claims) of the present application require an analyzer, and do not require a moving test object.

The older 1974 De Lang reference concerns a different technique than the Yoshizumi reference. While the Yoshizumi reference concerns focusing a measuring light via an objective lens, radiating a surface on a moving test object 7, the De Lang reference describes using an arranged light source 1 which strikes a certain dividing mirror 3 and transmitting one half of the incident beam to the reference mirror 5 and reflecting the other half to an object 4 to be tested. (Col. 2, lines 28-44). The De Lang reference uses an arrangement of reflection by mirrors to convert polarized light into mirrors, a linear polarizer, a $\lambda/4$ plate into circularly polarized light. The De Lang reference does not teach the entire structure of the present invention – and does not suggest in a manner to one skilled in the art to take its analyzer, use it in a specified way (and placement in the setup) with the other elements used in the Yoshizumi reference.

And, while Applicants maintain that claim 6 and its dependent claims as well as new claims 11 to 16, are allowable over the prior art (see above and Applicants' earlier submissions), Applicants have amended claim 6, for purposes of this application, to include reference to the reference surface being stationary – which is in further direct contrast to the Yoshizumi reference. No new matter has been added.

Both the Yoshizumi and De Lang references do not teach or suggest all of the features of amended claim 6 (or any of the other claims) of the present application. Accordingly, Applicants respectfully submit that both the Yoshizuma and De Lang references, together or alone, do not teach or suggest the invention of claim 6; and claim 6 as amended is allowable. Claims 7, 8 and 10 depend from claim 6 and are allowable for at least the same reasons as claim 6. Further new claims 11 to 16 are allowable over the prior art. Withdrawal of the rejection of claims 6 to 8 and 10 under 35 U.S.C. § 103(a) over the Yoshizuma reference in view of the De Lang reference is respectfully requested.

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Yoshizuma and De Lang references in view of U.S. Patent No. 5,627,666 to Sharp et al. (“Sharp reference”).

Claim 9 depends from claim 6 and is allowable for at least the same reason(s) as claim 6 as explained above.

The Sharp reference does not cure the deficiencies of the Yoshizuma and/or De Lang references. The Sharp reference appears to concern a liquid crystal phase modulator using cholesteric circular polarizers, where a phase modulator has an electro-optically rotatable smectic liquid crystal half-wave retarder in combination with a cholesteric liquid crystal circular polarizer. The Sharp reference mentions using liquid crystal cells which have optic axes which are rotatable upon application of an electric field, and to increase the tuning range more than one smectic liquid crystal cell is used in series. (Col. 2, lines 35-46). The Sharp reference does not appear to teach or suggest using an analyzer in the manner described, such as that required in claim 6 (and thus, claim 9) of the present invention, to tune an interferometer.

Accordingly, Applicants respectfully submit that the Yoshizuma, De Lang and Sharp references, together or alone, do not teach or suggest the invention of claim 9; and claim 9 is allowable. Withdrawal of the rejection of claim 9 under 35 U.S.C. § 103(a) over the Yoshizuma and De Lang references further in view of the Sharp reference is respectfully requested.

It is respectfully submitted that claims 6 to 16 are allowable and that the rejections of claims 6 to 10 under 35 U.S.C. § 103(a) should be withdrawn.

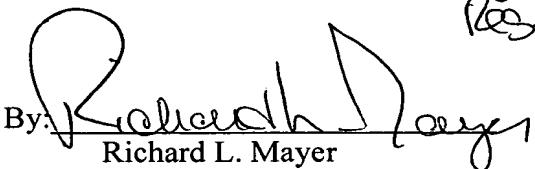
CONCLUSION

In view of all of the above, it is believed that the rejections of claims 6 to 10 have been obviated, and it is respectfully submitted that all claims 6 to 16 are presently allowable. It is therefore respectfully requested that the rejections be withdrawn, and that the present application issue as early as possible.

If it would further allowance of the present application, the Examiner is invited to contact the undersigned at the contact information shown below.

Respectfully submitted,

By:



Richard L. Mayer
(Reg. No. 22,490)

By: C. Shulley
Reg. No. 47084

Dated: May 30, 2005

CUSTOMER NO. 26646

KENYON & KENYON
One Broadway
New York, New York 10004
(212) 425-7200 (telephone)
(212) 425-5288 (facsimile)